

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARTIN SEANZ SALCIDO,

Petitioner,

v.

R. C. JOHNSON, Warden,

Respondent.

Case No. [20-cv-01942-YGR](#) (PR)

**ORDER DISMISSING PETITION AS
SUCCESSIVE**

This action was reassigned from a magistrate judge to the undersigned in light of a recent Ninth Circuit decision.¹ Petitioner, a state prisoner, filed this *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 and an application for leave to proceed *in forma pauperis* (“IFP”). Dkts. 1, 6. In addition, he has filed a motion to compel discovery, a motion for an evidentiary hearing, and a request for a status report. Dkts. 7, 10, 11.

Petitioner has filed a previous petition for a writ of habeas corpus with this Court, challenging the same conviction and sentence. *See* Case No. C 02-05541-MJJ (PR). The Court denied that petition on the merits. *See* Dkt. 19 in Case No. C 02-05541-MJJ (PR).

DISCUSSION

The Court finds the present petition is a second or successive petition attacking the same conviction and sentence as Petitioner’s prior federal habeas petition. A second or successive petition containing new claims may not be filed in the district court unless Petitioner first obtains from the United States Court of Appeals an order authorizing the district court to consider the petition. 28 U.S.C. § 2244(b)(3)(A). Petitioner has not done so. Accordingly, this petition is **DISMISSED** without prejudice to filing a new habeas action if he obtains the necessary order.

CONCLUSION

For the foregoing reasons, the petition is **DISMISSED** pursuant to 28 U.S.C. § 2244(b).

¹ *Williams v. King*, 875 F.3d 500, 503 (9th Cir. 2017) (magistrate judge lacked jurisdiction to dismiss case on initial screening because unserved defendants had not consented to proceed before magistrate judge).

1 Based solely on Petitioner's lack of financial resources, his application to proceed IFP is
2 GRANTED. Dkt. 6. The Clerk of the Court shall close the file and terminate all pending motions
3 as moot, including his motion to compel discovery, motion for an evidentiary hearing, and request
4 for a status report (dks. 7, 10, 11).

5 This Order terminates Docket Nos. 6, 7, 10 and 11.

6 IT IS SO ORDERED.

7 Dated: June 26, 2020


YVONNE GONZALEZ ROGERS
United States District Judge